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Fullman J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 10/3/12

Desdemona Offley,

Plaintiff,

-against-

The City of New York, Detective Brenden O'Brien,
Detective Martin Banghart, Detective Jennifer Childs,
Detective Gerard Delprete, Detective Lawrence
Cognato, Detective Andrew Fago, Deputy Inspector
Robert Hanson, Sergeant Andrew Hillary, Detective
Stephanie Sanchez, Detective Nelva Centeno, and
Detective Vincent Orsini,

Defendants.

**STIPULATION OF
SETTLEMENT AND ORDER OF
DISMISSAL AS TO
ATTORNEY'S FEES**

11 CV 9214 (JMF)

WHEREAS, plaintiff commenced this action by filing a complaint on or about
December 16, 2011; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's
allegations; and

WHEREAS, defendant City of New York served plaintiff with a Rule 68 Offer of
Judgment on August 17, 2012; and

WHEREAS, a stipulation of settlement was entered on ~~October 6, 2012~~ ^{August 28, 2012}; JMF

WHEREAS, plaintiff has assigned all right to attorney's fees, costs, and expenses
in this matter to his attorney, Michael Colihan, Esq.; and

WHEREAS, the parties have now negotiated and agreed to resolve the issue of
reasonable attorney's fees, costs and expenses without further proceedings;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by
and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.
2. Defendant City of New York hereby agrees to pay counsel for plaintiff, Michael Colihan, Esq., the total sum of **SEVENTEEN THOUSAND TWO HUNDRED FIFTY DOLLARS (\$17,250.00)**, in full satisfaction of all claims for costs, expenses and attorneys' fees arising out of any claims that were or could have been alleged by plaintiff in this action. In consideration for the payment of this sum, plaintiff and plaintiff's counsel agree to release the defendants, both served and unserved, City of New York, Detective Brenden O'Brien, Detective Martin Banghart, Detective Jennifer Childs, Detective Gerald Delprete, Detective Lawrence Cognato, Detective Andrew Fago, Deputy Inspector Robert Hanson, Sergeant Andrew Hillery, Detective Stephanie Sanchez, Detective Nelva Centeno and Detective Vincent Orsini, and any present or former employees and agents of the City of New York, from any and all liability, claims, or rights of action for costs, expenses and attorney's fees arising out of or connected with this action.
3. Plaintiff and counsel for plaintiff hereby agree and represent that no other claims for attorneys' fees, costs, or expenses arising out of this action shall be made by or on behalf of plaintiff in any application for attorneys' fees, costs, or expenses at any time.
4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

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5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.

6. Plaintiff and Plaintiff's counsel shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including a general release from plaintiff and plaintiff's counsel, based on the terms of paragraph "2" above.

7. The payment of the amount specified in paragraph "2" to counsel for plaintiff shall constitute the "reasonable attorneys" fees, expenses and costs" paid pursuant to the accepted Rule 68 Offer of Judgment.

8. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto with respect to the question of attorney's fees, costs, and expenses arising out of or connected with this action, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the attorney's fees, expenses, and costs shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Michael Colihan, Esq.
44 Court Street, Rm 911
Brooklyn, New York 11201

By: 

Michael Colihan, Esq.
Attorney for Plaintiff

Dated: New York, New York
_____, 2012


MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, Rm. 3-310
New York, New York 10007
(212) 442-6686

By: 

Melissa Wachs
Assistant Corporation Counsel

Dated: New York, New York
_____, 2012

SO ORDERED:


HON. JESSE M. FURMAN
UNITED STATES DISTRICT JUDGE

October 3, 2012

